

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

THOMAS CAGGIANO,

Plaintiff,

vs.

ERIC HOLDER,

Defendant.

Case No. 2:12-cv-01484-GMN-GWF

**ORDER**

Motion for Service by Marshal (#10)

This matter comes before the Court on Plaintiff Thomas Caggiano's Motion for Service by Marshal (#10). Federal Rule of Civil Procedure ("FRCP") 4(3) provides that at a plaintiff's request, the court may order that service of a summons and complaint be made by a United States marshal. Under the rule, service by marshal is compulsory only where the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916. Plaintiff is not authorized to proceed in forma pauperis or as a seaman in this case. FRCP 4(3) does permit the Court, in its discretion, to order service by marshal in other cases. The rule's Advisory Committee Notes explain that courts appropriately exercise their discretion to order service by marshal where a law enforcement presence appears necessary or advisable to keep the peace. Fed. R. Civ. P. 4(3) adv. comm. nn. (West 1993). The Court finds that service of Plaintiff's complaint by the marshal in this case is not necessary to keep the peace. Accordingly,


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6 GEORGE FOLEY, JR.  
United States Magistrate Judge

  
GEORGE FOLEY, JR.  
United States Magistrate Judge